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W.P.(MD) No.11747 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.P.(MD) No.11747 of 2023
and
W.M.P.(MD) Nos.10180 & 10181 of 2023**

R.Saravanan

... Petitioner

-VS-

The Authorized Officer
Bank of Baroda
Rajapalayam Branch
No.855-861, Tenkasi Road
Rajapalayam-626 117
Virudhunagar District

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records pertaining to the impugned order dated 22.02.2021 in the file of CrI.M.P.No.32 of 2020, on the file of Chief Judicial Magistrate, Srivilliputhur and quash the same and further direct the respondent not to initiate recovery proceedings.



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For Petitioner : Mr.K.Gokul

For Respondent : Mr.P.Pethu Rajesh

ORDER

[Order of the Court was made by S.S.SUNDAR, J.]

This writ petition is filed challenging the order dated 22.02.2021, passed in Crl.M.P.No.32 of 2020, by the learned Chief Judicial Magistrate, Srivilliputhur, under Section 14 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity, “SARFAESI Act”).

2. On 11.05.2023, this Court, while granting an order of interim stay, recorded the *bona fides* of the petitioner by producing a demand draft for a sum of Rs.10,00,000/- (Rupees ten lakhs only). The respondent – Bank has also acknowledged the receipt of the said demand draft. However, learned counsel for the respondent – Bank states that the amount due is Rs.2,50,00,000/- (Rupees two crores and fifty lakhs only).



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3. Learned counsel for the petitioner states that the petitioner has paid a substantial amount pursuant to the conditional order dated 27.11.2020, passed in I.A.No.1432 of 2020 in S.A.No.352 of 2020, by the Debts Recovery Tribunal, Madurai, while granting interim stay staying the then sale notice.

4. Though, according to the petitioner there was no sale pursuant to the sale notice issued and the proceedings challenging the sale notice became infructuous, the same does not enable the petitioner to sustain the present writ petition, as the petitioner has an effective alternative remedy of approaching the Debts Recovery Tribunal, for appropriate relief.

5. Hence, this writ petition is dismissed with liberty preserved to the petitioner to approach the Debts Recovery Tribunal, for appropriate relief. However, it is open to the petitioner to submit a representation to the respondent – Bank either for waiver of penal interest or One Time Settlement or for restructuring the loan and other concession, as may be permissible under the guidelines of the Reserve Bank of India or the norms applicable to



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the respondent – Bank, within a period of one week from the date of receipt of a copy of this order and on receipt of the same, the respondent – Bank shall pass appropriate orders in accordance with law. Till such time an order is passed on the petitioner's representation by the respondent – Bank and the same is communicated to the petitioner, the respondent – Bank shall not initiate any coercive action against the petitioner. The period during which the writ petition was pending before this Court may be excluded for the purpose of computing the period of limitation by the Debts Recovery Tribunal. No costs. Consequently, connected miscellaneous petitions are closed.

[S.S.S.R., J.]

[D.B.C., J.]

02.08.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:
The Chief Judicial Magistrate,
Srivilliputhur.



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